

**Dellar Family Trust Property Closure Construction Schedule**  
**February 3, 2012**

Description	Start	Finish	Comments
<b>Phase 1 - Radio Tower Relocation</b>			
USA Site	1/27/12	1/27/12	
Install BMP's	1/30/12	1/30/12	<i>Complete</i>
Mobilize Equipment	1/30/12	1/30/12	
Environmental Training	1/30/12	1/30/12	
Remove Existing Fence, Erect Temporary Fence	2/6/12	2/6/12	<i>Complete</i>
Erect Forms for Concrete Backfill of Tower	2/7/12	2/7/12	<i>Complete</i>
Place Concrete	2/8/12	2/8/12	<i>Complete</i>
Strip Forms	2/9/12	2/9/12	<i>partial completion</i>
Mass Grade Pad Area for Equipment	2/13/12	2/15/12	
Grade Corridor for New Power/	2/16/12	2/17/12	
Install Permanent Service Pedestal and Drop Pole	3/5/12	3/5/12	
Install New Mast for Satellite Dish	3/6/12	3/6/12	
Stub Permanent Conduits for Power and	3/6/12	3/7/12	
Relocate Propane and Generator	3/8/12	3/8/12	
Relocate Transmission Container	3/10/12	3/10/12	Move on Saturday
Connect Power and Communications	3/10/12	3/10/12	
Relocate Satellite Dish to New Mast Location	3/10/12	3/10/12	
Install New Poles By SMUD and AT&T	TBD	TBD	
Demo Existing Block Building	3/12/12	3/12/12	
<b>Phase 2 - Remaining Work</b>			
Remobilize	5/15/12	5/15/12	
Install BMP's/ USA Site	5/16/12	5/17/12	
Survey Site	5/18/12	5/21/12	
Clear and Grubb/ Strip Vegetation	5/22/12	5/28/12	
Mass Grade - Basin and Entrance Ramp	5/29/12	7/2/12	
Relocate Soil From Stockpile Area	7/3/12	7/19/12	
Cut to Fill Final Cover Layer	7/20/12	7/30/12	
Final Placement for 3% Grade	7/31/12	8/9/12	
Install 4-Inch and 12-Inch HDPE Pipe	8/10/12	8/30/12	
Install Electrical Conduits/ Pump Control Panel	8/10/12	8/30/12	
Finish Grade Final Cover Layer	8/31/12	9/19/12	
Install Access Road	9/20/12	9/26/12	
Install Periminent Fencing	9/27/12	10/1/12	
Hydroseed Site	10/2/12	10/3/12	
Project Complete		10/3/12	

Note: This schedule is subject to change and will be updated periodically throughout the duration of the project.

**Todd DeFrate - Dellar Trust**

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**From:** "Jeffory J. Scharff" <jscharff@scharff.us>  
**To:** <Tdefrate@waterboards.ca.gov>  
**Date:** 2/6/2012 4:03 PM  
**Subject:** Dellar Trust  
**CC:** 'Wendy Wyels' <wwyels@waterboards.ca.gov>, 'David Boyers' <DBoyers@waterboards.ca.gov>, 'Jerry Hicks' <JHicks@cityofsacramento.org>

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Attached are photos of today Monday February 6, 2012 commencement of construction.

Among other things, Temporary fencing has been erected, forms have been placed for the tower pedestal concrete.

Also over the weekend the Trust cleared through the services of a third party contractor, the debris from the homeless encampments. It was estimated at more than 2 and one-half tons. In addition surface metal debris was removed in advance of construction.

Jeffory J. Scharff, Esq.  
2625 Fair Oaks Blvd., Suite 7  
Sacramento, CA 95864  
Telephone: 916/485-5700  
Facsimile: 916/485-5912  
e-mail: jscharff@scharff.us

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\*\*\*\*\*

**Todd DelFrate - RE: Construction Update**

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**From:** Jerry Hicks <JHicks@cityofsacramento.org>  
**To:** "Jeffory J. Scharff" <jscharff@scharff.us>, Michael Benner <MBenner@cityofsacramento.org>  
**Date:** 2/1/2012 4:20 PM  
**Subject:** RE: Construction Update  
**CC:** Kathleen Rogan <KRogan@cityofsacramento.org>, Karl Kurka <KKurka@cityofsacramento.org>, "Tdelfrate@waterboards.ca.gov" <Tdelfrate@waterboards.ca.gov>, 'Karen Traugh' <ktraugh@scharff.us>, ReinaSchwartz <RSchwartz@cityofsacramento.org>

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I would have been delighted to work with you sometime before 4 pm on the day the letter was to go out.

Jerry Hicks, Supervising Deputy City Attorney

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---

**From:** Jeffory J. Scharff [mailto:jscharff@scharff.us]  
**Sent:** Wednesday, February 01, 2012 4:18 PM  
**To:** Jerry Hicks; Michael Benner  
**Cc:** Kathleen Rogan; Karl Kurka; Tdelfrate@waterboards.ca.gov; 'Karen Traugh'; Reina Schwartz  
**Subject:** RE: Construction Update

My question to you was do you have a draft for my review  
 I guess the answer is you don't

---

**From:** Jerry Hicks [mailto:JHicks@cityofsacramento.org]  
**Sent:** Wednesday, February 01, 2012 4:00 PM  
**To:** 'Jeffory J. Scharff'; Michael Benner  
**Cc:** Kathleen Rogan; Karl Kurka; Tdelfrate@waterboards.ca.gov; 'Karen Traugh'; Reina Schwartz  
**Subject:** RE: Construction Update

Jeff, I sent you an e-mail on January 19 requesting your input on a joint status report. You didn't respond. I sent you a second and third e-mail on January 31 again requesting your participation. Again you didn't respond. I sent you a fourth e-mail at 10:56 this morning. You sent this e-mail at 3:48 pm. I just opened it. Based on your course of conduct in failing to cooperate with the City for the last few months; the lateness of the hour (the letter must go out in today's mail at 4:40 to be timely) and the risk of non-compliance with the Water Board's directive, I was forced to prepare a letter solely on behalf of the City. It will go out shortly.

Jerry Hicks, Supervising Deputy City Attorney

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**From:** Jeffory J. Scharff [<mailto:jscharff@scharff.us>]  
**Sent:** Wednesday, February 01, 2012 3:48 PM  
**To:** Jerry Hicks; Michael Benner  
**Cc:** Kathleen Rogan; Karl Kurka; [Tdelfrate@waterboards.ca.gov](mailto:Tdelfrate@waterboards.ca.gov); 'Karen Traugh'  
**Subject:** RE: Construction Update

Do you have a proposed draft that I can review?

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**From:** Jerry Hicks [<mailto:JHicks@cityofsacramento.org>]  
**Sent:** Wednesday, February 01, 2012 10:56 AM  
**To:** 'Jeffory J. Scharff'; Michael Benner  
**Cc:** Kathleen Rogan; Karl Kurka; [Tdelfrate@waterboards.ca.gov](mailto:Tdelfrate@waterboards.ca.gov); 'Karen Traugh'  
**Subject:** RE: Construction Update

Jeff, please let me know the status of your input for the joint status letter.

Jerry Hicks, Supervising Deputy City Attorney

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**From:** Jeffory J. Scharff [<mailto:jscharff@scharff.us>]  
**Sent:** Tuesday, January 31, 2012 3:45 PM  
**To:** Michael Benner; Jerry Hicks  
**Cc:** Kathleen Rogan; Karl Kurka; [Tdelfrate@waterboards.ca.gov](mailto:Tdelfrate@waterboards.ca.gov); 'Karen Traugh'  
**Subject:** RE: Construction Update

Thank you very much

---

**From:** Michael Benner [<mailto:MBenner@cityofsacramento.org>]  
**Sent:** Tuesday, January 31, 2012 2:43 PM  
**To:** 'Jeffory J. Scharff'; Jerry Hicks  
**Cc:** Kathleen Rogan; Karl Kurka; [Tdelfrate@waterboards.ca.gov](mailto:Tdelfrate@waterboards.ca.gov); 'Karen Traugh'  
**Subject:** RE: Construction Update

Jeff. Just got your message.

Sac Police already went out to the site, and reported 3 separate campsites. 2 were in the process of being packed up already. The third was vacant with two not-so-nice dogs tied up nearby. Because it was vacant, the Officers posted the campsite for clean-up, and tried to personally notify the owner of the campsite (whom they know...), but she was not at her usual "hang-out." Officer will return in the morning to see if the site has been vacated. If not, it will be removed, and the dogs will be taken by Animal Control.

-Mike Benner

Michael J. Benner,  
Senior Deputy City Attorney  
Sacramento City Attorney's Office  
915 I St., Fourth Floor  
Sacramento, CA 95814  
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---

**From:** Jeffory J. Scharff [<mailto:jscharff@scharff.us>]  
**Sent:** Tuesday, January 31, 2012 2:32 PM  
**To:** Jerry Hicks  
**Cc:** Kathleen Rogan; Karl Kurka; Michael Benner; [Tdelfrate@waterboards.ca.gov](mailto:Tdelfrate@waterboards.ca.gov); 'Karen Traugh'  
**Subject:** RE: Construction Update

Thank you  
Please be sure that he uses my cell

---

**From:** Jerry Hicks [<mailto:JHicks@cityofsacramento.org>]  
**Sent:** Monday, January 30, 2012 11:11 AM  
**To:** Jeffory J. Scharff  
**Cc:** Kathleen Rogan; Karl Kurka; Michael Benner  
**Subject:** Re: Construction Update

I forwarded your email to Mike Benner. He will coordinate

Sent from my iPad

On Jan 30, 2012, at 10:18 AM, "Jeffory J. Scharff" <[jscharff@scharff.us](mailto:jscharff@scharff.us)> wrote:

Sorry in my haste I failed to also say to have Community Services or the P.D. coordinate with me. I will be reachable by cell phone. That number is 916/335-7223. My instructions from the Trustee are to make myself available to assist in any way that I can.

Let me know what I can do to help resolve the matter.

Thank you,

Jeff

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**From:** Jeffory J. Scharff [<mailto:jscharff@scharff.us>]  
**Sent:** Monday, January 30, 2012 10:08 AM  
**To:** 'Jerry Hicks'  
**Cc:** 'tcrandall@kleinfelder.com'; 'Bruce D. Barnett, Ph.D.'; 'Karen Traugh';  
'Tdelfrate@waterboards.ca.gov'; 'Kathleen Rogan'  
**Subject:** Construction Update

Jerry:

This morning our engineer, contractor and biologist met on site for a pre-construction meeting. Tim Crandall advises that the homeless encampments established within the Elderberry Bushes remain.

Veer Kamp was on site along with our consulting biologist, Dr. Bruce Barnett.

Dr. Barnett was to review the protocol for work in proximity to the bushes. With the homeless camping in the bushes they cannot be fenced off. Tim has correctly advised Veer Kamp that unless and until the City removes the encampments the liability is too great to proceed and their continued presence will result in a delay in the commencement of construction. A construction

delay will also result in the contractor making claims against the Trust that will in turn under the circumstances result in the Trust making claims against the City.

All of it can be avoided with the City's assistance to remove the illegal homeless encampments on the property.

Thank you for your assistance

Jeffory J. Scharff, Esq.  
2625 Fair Oaks Blvd., Suite 7  
Sacramento, CA 95864  
Telephone: 916/485-5700  
Facsimile: 916/485-5912  
e-mail: [jscharff@scharff.us](mailto:jscharff@scharff.us)

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**Todd DelFrate - RE: Burglary/Trespassing on Dellar Trust property**

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**From:** Karen Traugh <ktraugh@scharff.us>  
**To:** 'Jerry Hicks' <JHicks@cityofsacramento.org>  
**Date:** 1/30/2012 2:40 PM  
**Subject:** RE: Burglary/Trespassing on Dellar Trust property  
**CC:** 'Todd DelFrate' <TDelFrate@waterboards.ca.gov>, 'Kathleen Rogan' <KRogan@cityofsacramento.org>, 'Jeffory J Scharff' <jscharff@scharff.us>, 'Karl Kurka' <KKurka@cityofsacramento.org>

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Jerry:

Having spoken to both Tim Crandall and Jeff, here is what I think you want to know:

The bid documents consisted, initially, of the Project Manual and a set of the closure plan drawings, which were distributed at the pre-bid on-site meeting. Subsequently, Addenda 1 and 2 were issued and some, if not all, of the contractors requested and were provided electronically with a copy of the Closure and Post-Closure Maintenance Plan and Appendix D (SWPP).

The bid was not advertised.

The selection of contractors to whom the invitation to bid was submitted was the result of a collaboration between Kleinfelder, this office and the Trustee. We asked Kleinfelder for a list of contractors with whom they had worked who had experience in landfill closures. This office may have done some independent investigation, but I do not recall doing so. After discussion, the eight contractors to whom the bid invitation was sent was determined and the invitations were mailed.

If you need additional information, please let me know.

Karen Traugh, Paralegal

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**From:** Jerry Hicks [mailto:JHicks@cityofsacramento.org]  
**Sent:** Monday, January 30, 2012 11:09 AM  
**To:** Karen Traugh  
**Cc:** Todd DelFrate; Kathleen Rogan; Jeffory J Scharff; Karl Kurka  
**Subject:** Re: Burglary/Trespassing on Dellar Trust property

Karen, the Trust has never identified what documents constituted the invitation for bid (i.e. what was sent out to the bidders). Please identify these so we can submit to Cal Recycle. Also please let me know where the bid was advertised and if not advertised, how the selection as to whom to solicit bids from was made.

Sent from my iPad

On Jan 30, 2012, at 10:43 AM, "Karen Traugh" <ktraugh@scharff.us> wrote:

Jerry:

In anticipation of a motion to compel, Mr. Scharff has asked that I identify this email as a "meet and confer" communication.



First of all, I'm confused — So far as I know, we have provided the bid documents to the City on more than one occasion—initially in October 2011, when the Project Manual and Closure and Post-Closure Maintenance Plan were forwarded. Most recently, I personally delivered copies on December 29, 2011, in response to the City's Request for Production of Documents in the *City v. Daggs* litigation (see Proof of Service attached to Daggs' Response), as follows:

Kleinfelder Transmittal dated August 4, 2011, attaching eight Invitation to Bid letters;  
 Project Manual for the Closure Construction at the Dellar Trust Property, including Addendum Number 1 and Addendum Number 2;  
 Closure and Post-Closure Maintenance Plan;  
 Stormwater Pollution Prevention Plan;  
 Ford Construction Company proposal dated August 19, 2011;  
 Lund Construction Company proposal dated August 19, 2011;  
 Doug Veerkamp Engineering proposal dated August 19, 2011;  
 Western Engineering proposal dated August 19, 2011; and  
 Wood Bros. Inc. proposal dated August 19, 2011.

Also, I believe the City is in possession of at least one set, if not more, of full-size and reduced (11' x 17') Closure Plan drawings.

In addition, pursuant to subpoena in the *City v. Daggs* litigation, the City is in possession of Kleinfelder's files and records which also contain the bid documents.

If there is something else that you need, please let me know and I'll make sure you receive it.

Thanks,

Karen Traugh, Paralegal

---

**From:** Jerry Hicks [mailto:JHicks@cityofsacramento.org]  
**Sent:** Friday, January 27, 2012 4:59 PM  
**To:** 'Jeffory J Scharff'  
**Cc:** Todd DelFrate; Karen Traugh; Kathleen Rogan  
**Subject:** RE: Burglary/Trespassing on Dellar Trust property

Sent you subsequent e-mail. PD will be out Tuesday. In the spirit of cooperation, would you please provide the bid documents?

Jerry Hicks, Supervising Deputy City Attorney

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**From:** Jeffory J Scharff [mailto:jscharff@scharff.us]  
**Sent:** Friday, January 27, 2012 4:48 PM  
**To:** Jerry Hicks  
**Cc:** Todd DelFrate; Karen Traugh; Kathleen Rogan  
**Subject:** Re: Burglary/Trespassing on Dellar Trust property

Jerry:

Thank you but we are not still talking about the IHR attempted break in but the homeless that as a result of the recent actions of the City resulted in "relocations" That has lead to the homeless encampments in the Dellar Trust property

The Trustee asked me on his behalf to request the City's assistance in removing these camps in order that the Trust may continue in its efforts to comply with the Water Board's directives

Thank you again for your assistance

Jeff Scharff

Sent from my iPhone  
Without the benefit of spellcheck

On Jan 27, 2012, at 3:29 PM, Jerry Hicks <[JHicks@cityofsacramento.org](mailto:JHicks@cityofsacramento.org)> wrote:

Jeff, I forward Mike Benner's e-mail to you from 2 weeks ago.

Jerry Hicks, Supervising Deputy City Attorney

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---

**From:** Michael Benner  
**Sent:** Thursday, January 12, 2012 11:19 AM  
**To:** '[jscharff@scharff.us](mailto:jscharff@scharff.us)'  
**Subject:** Burglary/Trespassing on Dellar Trust property

Mr. Scharff:

Jerry Hicks from our office forwarded me your concerns over trespassers and an attempted burglary at the Dellar Trust property.

Unfortunately, the Sacramento Police Department's current policy is that they do not respond to "already happened" burglaries, or attempted burglaries. They require

that a victim fill out an online police report. You can get the online police report here: <http://www.sacpd.org/reports/fileonline/index.aspx>

If the burglary is in progress, you should call 911.

For trespassers, please call non-emergency dispatch at (916) 264-5471. While SPD cannot be designated as the "agent" for the property to serve trespass notices, they will respond to the scene and provide the notice for the agent or owner to fill out and serve upon the individual. SPD will log that notice into their computer system. If the person returns to the property, they can be arrested for trespassing, a misdemeanor under the City Code.

Michael J. Benner,  
Senior Deputy City Attorney  
Sacramento City Attorney's Office  
915 I St., Fourth Floor  
Sacramento, CA 95814  
Phone: (916) 808-5346  
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**Todd DelFrate - Re: Burglary/Trespassing on Dellar Trust property**

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**Date:** 1/30/2012 11:09 AM  
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**CC:** Todd DelFrate <TDelFrate@waterboards.ca.gov>, Kathleen Rogan <KRogan@cityofsacramento.org>, Jeffory J Scharff <jscharff@scharff.us>, KarlKurka <KKurka@cityofsacramento.org>

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Jeff Scharff

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**Sent:** Thursday, January 12, 2012 11:19 AM  
**To:** 'jscharff@scharff.us'  
**Subject:** Burglary/Trespassing on Dellar Trust property

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Michael J. Benner,  
 Senior Deputy City Attorney  
 Sacramento City Attorney's Office  
 915 I St., Fourth Floor  
 Sacramento, CA 95814  
 Phone: (916) 808-5346  
 Fax: (916) 808-7455  
 email: [mbenner@cityofsacramento.org](mailto:mbenner@cityofsacramento.org)

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**Todd DelFrate - RE: Burglary/Trespassing on Dellar Trust property**

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Jerry:

In anticipation of a motion to compel, Mr. Scharff has asked that I identify this email as a "meet and confer" communication.

First of all, I'm confused – So far as I know, we have provided the bid documents to the City on more than one occasion—initially in October 2011, when the Project Manual and Closure and Post-Closure Maintenance Plan were forwarded. Most recently, I personally delivered copies on December 29, 2011, in response to the City's Request for Production of Documents in the *City v. Daggs* litigation (see Proof of Service attached to Daggs' Response), as follows:

Kleinfelder Transmittal dated August 4, 2011, attaching eight Invitation to Bid letters;  
Project Manual for the Closure Construction at the Dellar Trust Property, including Addendum Number 1 and Addendum Number 2;  
Closure and Post-Closure Maintenance Plan;  
Stormwater Pollution Prevention Plan;  
Ford Construction Company proposal dated August 19, 2011;  
Lund Construction Company proposal dated August 19, 2011;  
Doug Veerkamp Engineering proposal dated August 19, 2011;  
Western Engineering proposal dated August 19, 2011; and  
Wood Bros. Inc. proposal dated August 19, 2011.

Also, I believe the City is in possession of at least one set, if not more, of full-size and reduced (11' x 17') Closure Plan drawings.

In addition, pursuant to subpoena in the *City v. Daggs* litigation, the City is in possession of Kleinfelder's files and records which also contain the bid documents.

If there is something else that you need, please let me know and I'll make sure you receive it.

Thanks,

Karen Traugh, Paralegal

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**From:** Jerry Hicks [mailto:JHicks@cityofsacramento.org]  
**Sent:** Friday, January 27, 2012 4:59 PM  
**To:** 'Jeffory J Scharff'  
**Cc:** Todd DelFrate; Karen Traugh; Kathleen Rogan  
**Subject:** RE: Burglary/Trespassing on Dellar Trust property

Sent you subsequent e-mail. PD will be out Tuesday. In the spirit of cooperation, would you please provide the bid documents?

Jerry Hicks, Supervising Deputy City Attorney

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The Trustee asked me on his behalf to request the City's assistance in removing these camps in order that the Trust may continue in its efforts to comply with the Water Board's directives

Thank you again for your assistance

Jeff Scharff

Sent from my iPhone  
Without the benefit of spellcheck

On Jan 27, 2012, at 3:29 PM, Jerry Hicks <[JHicks@cityofsacramento.org](mailto:JHicks@cityofsacramento.org)> wrote:

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**Todd DelFrate - RE: Construction Update**

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**From:** "Jeffory J. Scharff" <jscharff@scharff.us>  
**To:** "Jeffory J. Scharff" <jscharff@scharff.us>, 'Jerry Hicks' <JHicks@cityofsacramento.org>  
**Date:** 1/30/2012 10:19 AM  
**Subject:** RE: Construction Update  
**CC:** <tcrandall@kleinfelder.com>, "Bruce D. Barnett, Ph.D." <bdbarnet@sbcglobal.net>, 'Karen Traugh' <ktraugh@scharff.us>, <Tdelfrate@waterboards.ca.gov>, 'Kathleen Rogan' <KRogan@cityofsacramento.org>

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Sorry in my haste I failed to also say to have Community Services or the P.D. coordinate with me. I will be reachable by cell phone. That number is 916/335-7223. My instructions from the Trustee are to make myself available to assist in any way that I can.

Let me know what I can do to help resolve the matter.

Thank you,

Jeff

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**From:** Jeffory J. Scharff [mailto:jscharff@scharff.us]  
**Sent:** Monday, January 30, 2012 10:08 AM  
**To:** 'Jerry Hicks'  
**Cc:** 'tcrandall@kleinfelder.com'; 'Bruce D. Barnett, Ph.D.'; 'Karen Traugh'; 'Tdelfrate@waterboards.ca.gov'; 'Kathleen Rogan'  
**Subject:** Construction Update

Jerry:

This morning our engineer, contractor and biologist met on site for a pre-construction meeting. Tim Crandall advises that the homeless encampments established within the Elderberry Bushes remain. Veer Kamp was on site along with our consulting biologist, Dr. Bruce Barnett.

Dr. Barnett was to review the protocol for work in proximity to the bushes. With the homeless camping in the bushes they cannot be fenced off. Tim has correctly advised Veer Kamp that unless and until the City removes the encampments the liability is too great to proceed and their continued presence will result in a delay in the commencement of construction. A construction delay will also result in the contractor making claims against the Trust that will in turn under the circumstances result in the Trust making claims against the City.

All of it can be avoided with the City's assistance to removed the illegal homeless encampments on the property.

Thank you for your assistance

Jeffory J. Scharff, Esq.

2625 Fair Oaks Blvd., Suite 7  
Sacramento, CA 95864  
Telephone: 916/485-5700  
Facsimile: 916/485-5912  
e-mail: [jscharff@scharff.us](mailto:jscharff@scharff.us)

\*\*\*\*\*

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**Todd DelFrate - RE: Burglary/Trespassing on Dellar Trust property**

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January 27, 2012  
File No.: 116081-1

Eric Moser  
Doug Veerkamp General Engineering, Inc.  
2585 Cold Springs Road  
Placerville, CA 95667

**Re: Incremental Notice to Proceed  
Dellar Family Trust Property Closure Project  
Sacramento, California**

Dear Mr. Moser:

Your firm is authorized to proceed with construction work associated with the radio transmission facility (Phase 1 in the Project Manual). There is still some coordination work (meetings and approvals from Immaculate Heart Radio) that must be completed before certain elements of this phase can be completed, but our intent is to have these issues resolved over the next two weeks.

We will have a construction kickoff meeting on Monday, January 30, 2012 at 8:00 AM. This meeting will include WEAP and SWPPP presentations. BMPs will be constructed on January 30, 2012, and grading will start on the following day.

Please contact me if you have any questions or require additional information.

Sincerely,

**KLEINFELDER**

Timothy Crandall, PE  
Principal Engineer

cc: Jeffory Scharff, Esq.